STATE REVIEW FRAMEWORK

Tennessee

Nashville/Davidson County

Clean Air Act
Implementation in Federal Fiscal Year 2021

U.S. Environmental Protection Agency
Region 4

Final Report
May 11, 2023

I. Introduction

A. Overview of the State Review Framework

The State Review Framework (SRF) is a key mechanism for EPA oversight, providing a nationally consistent process for reviewing the performance of state delegated compliance and enforcement programs under three core federal statutes: Clean Air Act, Clean Water Act, and Resource Conservation and Recovery Act. Through SRF, EPA periodically reviews such programs using a standardized set of metrics to evaluate their performance against performance standards laid out in federal statute, EPA regulations, policy, and guidance. When states do not achieve standards, the EPA will work with them to improve performance.

Established in 2004, the review was developed jointly by EPA and Environmental Council of the States (ECOS) in response to calls both inside and outside the agency for improved, more consistent oversight of state delegated programs. The goals of the review that were agreed upon at its formation remain relevant and unchanged today:

1. Ensure delegated and EPA-run programs meet federal policy and baseline performance standards
2. Promote fair and consistent enforcement necessary to protect human health and the environment
3. Promote equitable treatment and level interstate playing field for business
4. Provide transparency with publicly available data and reports

B. The Review Process

The review is conducted on a rolling five-year cycle such that all programs are reviewed approximately once every five years. The EPA evaluates programs on a one-year period of performance, typically the one-year prior to review, using a standard set of metrics to make findings on performance in five areas (elements) around which the report is organized: data, inspections, violations, enforcement, and penalties. Wherever program performance is found to deviate significantly from federal policy or standards, the EPA will issue recommendations for corrective action which are monitored by EPA until completed and program performance improves.

The SRF is currently in its 4th Round (FY2018-2022) of reviews, preceded by Round 3 (FY2012-2017), Round 2 (2008-2011), and Round 1 (FY2004-2007). Additional information and final reports can be found at the EPA website under State Review Framework.

II. Navigating the Report

The final report contains the results and relevant information from the review including EPA and program contact information, metric values, performance findings and explanations, program responses, and EPA recommendations for corrective action where any significant deficiencies in performance were found.

A. Metrics

There are two general types of metrics used to assess program performance. The first are **data metrics**, which reflect verified inspection and enforcement data from the national data systems of each media, or statute. The second, and generally more significant, are **file metrics**, which are derived from the review of individual facility files in order to determine if the program is performing their compliance and enforcement responsibilities adequately.

Other information considered by EPA to make performance findings in addition to the metrics includes results from previous SRF reviews, data metrics from the years in-between reviews, multi-year metric trends.

B. Performance Findings

The EPA makes findings on performance in five program areas:

- **Data** - completeness, accuracy, and timeliness of data entry into national data systems
- **Inspections** - meeting inspection and coverage commitments, inspection report quality, and report timeliness
- **Violations** - identification of violations, accuracy of compliance determinations, and determination of significant noncompliance (SNC) or high priority violators (HPV)
- **Enforcement** - timeliness and appropriateness of enforcement, returning facilities to compliance
- **Penalties** - calculation including gravity and economic benefit components, assessment, and collection

Though performance generally varies across a spectrum, for the purposes of conducting a standardized review, SRF categorizes performance into three findings levels:

Meets or Exceeds: No issues are found. Base standards of performance are met or exceeded.

Area for Attention: Minor issues are found. One or more metrics indicates performance issues related to quality, process, or policy. The implementing agency is considered able to correct the issue without additional EPA oversight.

Area for Improvement: Significant issues are found. One or more metrics indicates routine and/or widespread performance issues related to quality, process, or policy. A recommendation for corrective action is issued which contains specific actions and schedule for completion. The EPA monitors implementation until completion.

C. Recommendations for Corrective Action

Whenever the EPA makes a finding on performance of *Area for Improvement*, the EPA will include a recommendation for corrective action, or recommendation, in the report. The purpose of recommendations are to address significant performance issues and bring program performance back in line with federal policy and standards. All recommendations should include

specific actions and a schedule for completion, and their implementation is monitored by the EPA until completion.

III. Review Process Information

Key Dates:

March 18, 2022, kick-off letter sent to the local program
June 21, 2022, opening meeting and the virtual file review for CAA began
September 13, 2022, closing meeting with the local program
September 15, 2022, file review checklist summary spreadsheet sent to the local program

Local Agency and EPA key contacts for review:

	Nashville Air Pollution Control Division (APC)	**EPA Region 4**
SRF Contact	John Finke, P.E. Director, Air Pollution Control Division Metro Public Health Department Nashville/Davidson County	Reginald Barrino, SRF Coordinator
CAA	John Finke, P.E. Director, Air Pollution Control Division Metro Public Health Department Nashville/Davidson County	Denis Kler, Policy, Oversight & Liaison Office Chetan Gala, Air Enforcement Branch

Executive Summary

Areas of Strong Performance

The following are aspects of the program that, according to the review, are being implemented at a high level:

Clean Air Act (CAA)

The Nashville/Davidson County, Tennessee, Metro Public Health Department Air Pollution Control Division (MPHD) was timely in the reporting of high priority violations (HPVs), and timely in the reporting of enforcement minimum data requirements (MDRs) in ICIS-Air.

MPHD met the negotiated frequency for inspection of Title V sources and SM-80 sources, completed the reviews of the Title V Annual Compliance Certifications, provided the necessary documentation for Full Compliance Evaluations (FCEs), and provided the necessary documentation for the Compliance Monitoring Reports (CMRs).

MPHD was timely in identifying HPVs.

MPHD issued formal enforcement actions that returned facilities to compliance, addressed HPVs in a timely manner, and appropriately addressed HPVs consistent with the HPV Policy.

Priority Issues to Address

The following are aspects of the program that, according to the review, are not meeting federal standards and should be prioritized for management attention:

Clean Air Act (CAA)

Discrepancies were identified between the information in the facility files and the data that was entered in ICIS-Air. In addition, MPHD did not meet the timely report of the minimum data requirements (MDR) for stack tests and stack test results into ICIS-Air.

Clean Air Act Findings

CAA Element 1 - Data

Finding 1-1
Meets or Exceeds Expectations

Recurring Issue:
No

Summary:
The Nashville/Davidson County, Tennessee, Metro Public Health Department Air Pollution Control Division (MPHD) was timely in the reporting of high priority violations (HPVs), and timely in the reporting of enforcement minimum data requirements (MDRs) in ICIS-Air.

Explanation:
Data metric 3a2 (100%) and data metric 3b3 (100%) indicated that MPHD was timely in reporting HPVs, and timely in reporting the enforcement MDRs in ICIS-Air.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
3a2 Timely reporting of HPV determinations [GOAL]	100%	35.6%	2	2	100%
3b3 Timely reporting of enforcement MDRs [GOAL]	100%	74.2%	4	4	100%

State Response:

CAA Element 1 - Data

Finding 1-2
Area for Attention

Recurring Issue:
No

Summary:

Discrepancies were identified in the timely reporting of compliance monitoring MDRs in ICIS-Air.

Explanation:

Data metric 3b1 (77.9%) indicated that MPHD was timely in the reporting of 88 out of 113 compliance monitoring MDRs in ICIS-Air. Of the 25 late compliance monitoring MDRs entries in ICIS-Air, 22 were associated with late entry of full compliance evaluations, and the remaining three were associated with late entry of title V annual compliance certifications. To address the late data entries associated with the FCEs, MPHD indicated that they will evaluate the items outlined in the CMS policy for FCEs from the date of the onsite inspection and the previous 12 months.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
3b1 Timely reporting of compliance monitoring MDRs [GOAL]	100%	79.2%	88	113	77.9%

State Response:
Since the CMS Policy assigns FCEs to a specific fiscal year, APC was under the impression that the FCE was the summation of all enforcement activities (inventory, periodic reports, on-site inspection, etc.) from that fiscal year. Through this process we learned that EPA defines the FCE as all enforcement activities that take place in the 12 months prior to the on-site inspection. The 22 late entries for full compliance evaluations are due to APC waiting for a piece of information relevant to the specific fiscal year, despite the on-site inspection having already been conducted. In the future, APC will follow EPA's methodology and report the FCE date as the date of the on-site inspection.

CAA Element 1 - Data

Finding 1-3
Area for Improvement

Recurring Issue:
Recurring from Round 3

Summary:
Discrepancies were identified between the information in the facility files and the data that was entered in ICIS-Air. In addition, MPHD did not meet the timely reporting of the minimum data requirements (MDR) for stack tests and stack test results into ICIS-Air.

Explanation:
File review metric 2b indicated that 52.6% of the files reviewed reflected accurate entry of all MDRs in ICIS-Air. Nine files contained discrepancies between the information in the file and the data that was entered in ICIS-Air. The discrepancies consisted of air programs and subparts not being identified in ICIS-Air, inaccurate dates associated with Title V annual compliance certifications in ICIS-Air, inaccurate full compliance evaluation information in ICIS-Air, informal enforcement action information not being entered in ICIS-Air, and federally reportable violation information not being entered in ICIS-Air. A representative from MPHD confirmed the discrepancies that were identified during the file review. Incorrect data has the potential to hinder the EPA's oversight and targeting efforts and may result in inaccurate information being released to the public. Data metric 3b2 (50%) indicated that MPHD was timely in reporting of one of the two stack tests and stack results into ICIS-Air. A representative from MPHD indicated that the discrepancy was due to an oversight.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
2b Files reviewed where data are accurately reflected in the national data system [GOAL]	100%		10	19	52.6%
3b2 Timely reporting of stack test dates and results [GOAL]	100%		1	2	50%

State Response:
2b – The mismatch in dates is due to the documents being stamped when they enter the building. Our ICIS Coordinator was recording the dates that he had received and reviewed the document. This discrepancy will be corrected. There were also several cases where a source was missing a NESHAP or NSPS listing. These were rules that came into effect after the sources were entered

into ICIS. These corrections have been made and Nashville will be watching for additional regulations in the future.

3b2 – The ICIS Coordinator entered the date of the test when it occurred. He forgot to update ICIS once the final report was received. This will be corrected moving forward.

Recommendation:

Rec #	Due Date	Recommendation
1	12/29/2023	File metric 2b: By May 1, 2023, MPHD will provide to the EPA a written description of the root causes for the inaccurate data entry, and a written description of what measures and/or procedures have been implemented to ensure accurate entry of data in ICIS-Air. By December 29, 2023, the EPA will review a random selection of facility files and evaluate file metric 2b to ensure data entry has improved. Once file metric 2b indicates a 71.0% or greater of data entry accuracy, then this recommendation will be considered complete.
2	12/29/2023	Data metric 3b2: By May 1, 2023, MPHD will provide to the EPA a written description of what measures and/or procedures have been implemented to ensure stack tests and stack test results are entered in ICIS-Air. By December 29, 2023, the EPA will review FY 2022 data for metric 3b2 to ensure the stack test and stack test results data entry has improved. Once data metric 3b2 indicates a 71.0% or greater of data entry, then this recommendation will be considered complete.

CAA Element 2 - Inspections

Finding 2-1
Meets or Exceeds Expectations

Recurring Issue:
No

Summary:
MPHD met the negotiated frequency for inspection of Title V sources and SM-80 sources, completed the reviews of the Title V Annual Compliance Certifications, provided the necessary

documentation for Full Compliance Evaluations (FCEs), and provided the necessary documentation for the Compliance Monitoring Reports (CMRs).

Explanation:
Data metrics 5a (100%) and 5b (100%) indicated that MPHD provided adequate inspection coverage for Title V sources and SM-80 sources during the FY 2021 review year by ensuring that each Title V source was inspected at least once every 2 years, and each SM-80 source was inspected at least once every 5 years. In addition, data metric 5e (100%) indicated that MPHD completed the reviews of the Title V annual compliance certifications. File review metrics 6a (94.7%) and 6b (94.7%) indicated that MPHD provided adequate documentation of the FCE elements identified in the CAA Stationary Source Compliance Monitoring Strategy (CMS Guidance) and provided adequate documentation in the CMRs to determine the compliance status of the facility.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
5a FCE coverage: majors and mega-sites [GOAL]	100%	86.2%	7	7	100%
5b FCE coverage: SM-80s [GOAL]	100%	92.9%	8	8	100%
5e Reviews of Title V annual compliance certifications completed [GOAL]	100%	81.1%	8	8	100%
6a Documentation of FCE elements [GOAL]	100%		18	19	94.7%
6b Compliance monitoring reports (CMRs) or facility files reviewed that provide sufficient documentation to determine compliance of the facility [GOAL]	100%		18	19	94.7%

State Response:

CAA Element 3 - Violations

Finding 3-1
Meets or Exceeds Expectations

Recurring Issue:
No

Summary:
MPHD was timely in identifying HPVs.

Explanation:
Data metric 13 (100%) indicated that MPHD was timely in identifying HPVs.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
13 Timeliness of HPV Identification [GOAL]	100%	81.4%	1	1	100%

State Response:

CAA Element 3 - Violations

Finding 3-2
Area for Attention

Recurring Issue:
No

Summary:
Discrepancies were identified in the accuracy of compliance determinations.

Explanation:
File review metric 7a (78.9%) indicated that based on the information contained in the files, MPHD made accurate compliance determinations in 15 of the 19 files reviewed. Three discrepancies

consisted of MPHD issuing notices of violation that were not identified as federally reportable violations, and one discrepancy consisted of MPHD not addressing a reported violation.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
7a Accurate compliance determinations [GOAL]	100%		15	19	78.9%

State Response:
These were oversights on our behalf, the FRV guidance will be followed more closely in the future.

CAA Element 3 - Violations

Finding 3-3
Area for Improvement

Recurring Issue:
No

Summary:
Discrepancies were identified in the accuracy of high priority violation (HPV) determinations.

Explanation:
File review metric 8c (40%) indicated that two of the five files reviewed had accurate HPV determinations. The three discrepancies consisted of MPHD issuing notices of violation that were not identified as federally reportable violations and therefore an HPV determination was not made.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
8c Accuracy of HPV determinations [GOAL]	100%		2	5	40%

State Response:

The three HPV determinations that were not made resulted from the mischaracterization of FRVs as previously stated. With the corrections in identifying FRVs, we believe this issue will also be resolved.

Recommendation:

Rec #	Due Date	Recommendation
1	12/29/2023	File metric 8c: By May 1, 2023, MPHD will provide to the EPA a written description of the root causes for the inaccurate HPV determinations, and a written description of what measures and/or procedures have been implemented to ensure accurate HPV determinations are made. By December 29, 2023, the EPA will review a random selection of facility files that contain informal enforcement actions and evaluate file metric 8c to ensure HPV determinations have improved. Once file metric 8c indicates a 71.0% or greater of HPV determinations, then this recommendation will be considered complete.

CAA Element 4 - Enforcement

Finding 4-1
Meets or Exceeds Expectations

Recurring Issue:
No

Summary:
MPHD issued formal enforcement actions that returned facilities to compliance, addressed HPVs in a timely manner, and appropriately addressed HPVs consistent with the HPV Policy.

Explanation:
File review metrics 9a (100%), 10a (100%), and 10b (100%) indicated that MPHD returned facilities to compliance, addressed HPVs in a timely manner, and appropriately addressed HPVs consistent with the HPV policy. All HPV actions were addressed within the 180-day timeframe required by the HPV Policy, so MPHD did not have to develop case development and resolution timelines and therefore, file review metric 14 does not apply.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
9a Formal enforcement responses that include required corrective action that will return the facility to compliance in a specified time frame or the facility fixed the problem without a compliance schedule [GOAL]	100%		2	2	100%
10a Timeliness of addressing HPVs or alternatively having a case development and resolution timeline in place	100%		2	2	100%
10b Percent of HPVs that have been addressed or removed consistent with the HPV Policy [GOAL]	100%		2	2	100%

State Response:

CAA Element 5 - Penalties

Finding 5-1
Area for Attention

Recurring Issue:
No

Summary:
MPHD did not assess civil penalties during the review period of FY 2021.

Explanation:
MPHD did not assess civil penalties for any Title V sources, SM-80 sources or sources included in the CMS plan during the FY 2021 review year, so the EPA was unable to evaluate penalty calculations and penalty collection documentation (File Review Metrics 11a, 12a and 12b). The EPA addresses such anomalous cases by reviewing activities from previous reporting periods. However, the EPA has determined that there were no civil penalties assessed for any Title V sources, SM-80 sources or sources included in the CMS plan during FY 2015 thru FY 2020. As a result, the EPA is recommending that this element be considered an Area of Attention, and that MPHD conduct an assessment to determine if corrective action procedures are warranted.

Relevant metrics:

Metric ID Number and Description	Natl Goal	Natl Avg	State N	State D	State Total
11a Penalty calculations reviewed that document gravity and economic benefit [GOAL]	100%		0	0	0
12a Documentation of rationale for difference between initial penalty calculation and final penalty [GOAL]	100%		0	0	0
12b Penalties collected [GOAL]	100%		0	0	0

State Response:
This finding is not entirely accurate, but EPA could have drawn no other conclusions. Nashville does collect penalties, but most of them don't go through our enforcement staff, which may explain why they weren't being reported. It is very rare for us to have an "environmental violation" where our staff inspects a facility and finds a violation causing environmental harm. The majority of our penalties are "administrative" in nature. These would include late fees, late reports, minor sources not getting a timely construction permit, etc. These are mostly handled in bulk by our clerical staff. A list of penalties assessed in 2021 has been included for your review. Going forward, these will be included in the ICIS system.